IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (LODGING) NO.252 OF 2005

Kokan Mercantile Co-op. Bank Ltd. Petitioner

versus

BEST Undertaking and another Respondents

Ms.A.R.Lambay i/by Lambay & Co; for petitioner.

Mr.Harvinder Toor i/by Gr.Bayky & Co; for respondents.

CORAM : H.L.GOKHALE AND
S.C.DHARMADHIKARI, JJ.

DATE : 14th March 2005

PC :

1. Heard Ms.Lambay for petitioner and Mr.Toor for respondents. Petitioner is aggrieved by the demand made by the respondent undertaking for an amount of Rs.1,98,641.30 Ps. which is for a much earlier period from 1st June 1999 to 1st April 2000. The petitioner’s case is that the claim is made by the respondent undertaking belatedly on 8th October 2004. The claim is time barred according to the petitioner and reliance is placed on Section 56(2) of the Electricity Act. Mr.Toor on the other hand points out that a

remedy is available u/s 42(5) of the Act. A reference is made to the Consumer Redressal Forum and the said Forum is competent to decide the controversy.

2. Having heard both counsel the appropriate remedy will be that the petitioner should appear before the Consumer Redressal Forum where petitioner has appointed a representative of it's own. In the mean while petitioner will deposit an amount of Rs.1.00 lakh with the respondent. The Forum will also go into the question as to whether the claim of respondent undertaking is belated and time barred. In the event claim is held to be time barred, the respondent will refund the amount of Rs.1.00 lakh with appropriate rate of interest as may be decided by the Forum. Power supply not to be discontinued. The deposit and receipt, both will be without prejudice. Amount of Rs.1.00 lakh (Rs.One lakh only) will be deposited within two weeks. Petition disposed of.

(H.L.GOKHALE, J.)

(S.C.DHARMADHIKARI, J.)